IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5361 OF 2004

1. Karmaveer R.S. Shaikshanik and anr. ..Petitioners

Vs.

Smt. Vandana T. Thube ..Respondent

Mr. K.S. Patil h/f Mr. P.N. Joshi for petitioners.
Mr. Satyajeet A. Rajeshirke for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 28, 2006.

P.C.:

1. Heard the learned counsel for the respective parties.

2. Appeal No.22 of 1999 filed by the respondent-teacher has been allowed by the School Tribunal, Nashik Region, Nashik vide its Judgment and Order dated 5/3/2003 and the said order is assailed in this petition which will have to be treated as the one filed under Article 227 of the Constitution.

3. The respondent came to be appointed for the first time on 3/7/1995 on probation. Her appointment was approved by the competent authority but against a

post which was unaided. She was sought to be removed with effect from 15/6/1999 as per the order of termination dated 7/6/1999. She made a representation and the same was replied on 2/2/2000 informing that she was not a regular teacher and could be removed at any time without assigning any reason.

4. The learned Presiding Officer of the School Tribunal, on considering the averments made in the appeal memo as well as the reply filed by the Management, held that the school was recognised, the appointment of the respondent-teacher was made as per Section 7 of the M.E.P.S. Act 1977 and the Rules framed thereunder and the appointment was approved. In addition, the respondent was appointed on probation and she had completed the probation period. By the time the impugned termination order was issued, she had put in about four years of service and, therefore, she had attained the status of a permanent teacher. The required procedure to be followed for removal of permanent teacher and as set out in the M.E.P.S. Rules was not followed and, therefore, the appeal was allowed with a direction to reinstate the appellant-teacher with continuity of service and full

backwages within 40 days.

5. It was sought to be suggested that the petitioner-Management was ready and willing to reinstate the respondent but at a school of its choice. This conditional statement cannot be accepted and in any case the challenge to the impugned Judgment and Order is devoid of merits. The reasoning set out by the Presiding Officer of the School Tribunal in support of the direction to reinstate and full backwages does not suffer from any error apparent on the face of the record.

6. Hence, the petition fails and the same is rejected summarily.

7. It is made clear that the Management's rights to transfer its employees is not dealt with in this petition.

(B.H. Marlapalle,J.)